

## **REMARKS/ARGUMENTS**

In response to the Office Action mailed July 18, 2006, Applicants provide the following response. In the prior amendment, the Applicants amended independent apparatus claims 1 and 19 to specifically recite as a limitation that "wherein one of said coupling elements has a predetermined area, and wherein the other of said coupling elements has a length greater than the length of said one coupling element." In that same prior amendment, the Applicants also amended independent method claim 35 to specifically recite the additional limitation of "forming one of the coupling elements with a predetermined area, and forming the other of the coupling elements with a length greater than the length of said one coupling element."

In response to those amendments, the current Office Action cites to new bases for rejection. The primary reference for the rejection of all claims is De La Huerga (U.S. 5,883,576). The Office Action relies upon De La Huerga for the teaching of:

"a pair of electronic coupling elements (504 in fig. 14; col. 13, lines 56 through col. 14, line 15) disposed generally at the strap head and tail ends (col. 7, lines 38-52);"

"wherein one of the coupling elements has a predetermined area, and wherein the other of the coupling elements has a length greater than the length of the one coupling element (i.e., the coupling elements 504 at the strap end 512, which certainly has a length greater than the length at the other strap end 508 as shown in fig. 14); and

an adhesive for securing the strap head and tail ends (106, 108) in overlapping relation with the pair of electronic coupling elements in mutually coupled relation, to configure the strap into a closed loop shape of selected circumferential size ('...the ends may be secured

via adhesive, melting, crimping, etc' col. 7, lines 50-52; col. 7, lines 38-52)."

**35 U.S.C. § 102**

In rejecting claims 1-6, 8, 16-17, 19-21, 24-25, 30-31, 34-39 and 47, the Office Action relies upon De La Huerga as anticipating the claimed invention.

Applicants submit that De La Huerga fails to teach all of the claimed limitations. The structure in De La Huerga to which the Office Action cites for the "pair of electronic coupling elements" is in fact a single loop of conductive material (504) that traverses nearly the entire length of the bracelet. Element 504 in De La Huerga does not comprise a pair of elements, but rather a single element. A circuit is completed using the loop of conductive material (504) by connection of the ends thereof to adjacent contacts (134) during the manufacture of the DeLa Huerga bracelet. By contrast, in the present invention, the circuit is *not* completed during the manufacture of the band but only during the application of the band to a wearer (Fig. 1). The circuit in De La Huerga is not completed when using the adhesive for securing the strap head and tail ends in overlapping relation, thus placing the "pair of electronic coupling elements in mutually coupled relation," as required by independent claims 1 and 19.

If conductive material (504) in De La Huerga were coupled end to end when the bracelet were secured in a loop, the failure mechanism of De La Huerga would be frustrated. As noted above, as conductive material (504) is configured, a circuit exists even before securing the ends of the strap together. In this way, if only one side of the conductive material (504) is cut, the circuit is broken and the memory is unuseable. If, as the Office Action suggests, another circuit of the conductive material (504) is created when the bracelet were secured in a loop and the ends of conductive material (504) overlap - a suggestion *not* made *nor* inferred by De La Huerga -, a parallel circuit would be formed which would require both sides of the conductive material (504) to be cut before the circuit would fail. In addition, the coupling of one end of the conductive material

(504) to the other may completely frustrate the failure mechanism and complete the circuit regardless of how often the conductive material (504) is cut along the bracelet. If the portion of conductive material (504) at end (512) of the bracelet connects two or more contacts (134), then the cut of conductive material (504) would need to be across the contacts (134) in order to break the circuit. Clearly, De La Huerger does not teach a coupling mechanism wherein a circuit is completed when the ends of the bracelet overlap.

Further, since De La Huerger teaches a single loop of conductive material (504) rather than a pair of electronic coupling elements, there is no basis for measuring a pre-determined area or one element having a length greater than the length of the other element. De La Huerger does not specifically recite a limitation. It is improper to arbitrarily divide the loop of conductive material (504) in order to read such a limitation in the drawings when De La Huerger itself does not divide the loop of conductive material (504) into discrete sections.

In addition, the Office Action cites to element (116 in Fig. 2) as teaching a printed conductive film to create the electronic coupling elements. In fact, element (116) is a viewing section for receiving printed basic identification information, i.e., patient's name, identification number, and primary appearance characteristics. (col. 7, lines 55-60). Nothing in De La Huerger suggests that element (116) is anything more than an area capable of receiving printed information in the form of printed text. Certainly, nothing in De La Huerger suggests that element (116) is a conductive film or even receives a conductive film.

Independent claim 35 includes similar limitations that distinguish it from De La Huerger. Independent claim 35 recites "forming one of the coupling elements with a predetermined area, and forming the other of the coupling elements with a length greater than the length of said one coupling element." For the same reasons discussed above, De La Huerger fails to teach a pair of electronic coupling elements that have the claimed physical characteristics.

In addition, independent claim 35 recites “adhesively interconnecting said head and tail ends in overlapping relation with the pair of electronic coupling elements in mutually coupled relation to enable the communication circuit”. Again, for the same reasons discussed above, De La Huerga fails to anticipate this claimed limitation.

For the reasons that independent claims 1, 19 and 35 are not anticipated by De La Huerga, so to are dependent claims 2-6, 8, 16-17, 20-21, 24-25, 30-31, 34, 36-39 and 47 not anticipated.

**35 U.S.C. § 103**

In rejecting claims 7, 9, 11-15, 18, 22, 26, 28-29, 32-33, 40-43 and 45-46, the Office Action relies upon De La Huerga in view of Mosher, Jr. (US 5,973,600) as rendering the claimed invention obvious. The Office Action relies upon the same teachings of De La Huerga discussed above, but states that De La Huerga fails to teach including a protective film over the communication circuit. The Office Action relies upon Mosher, Jr. to teach this limitation, as well as, the limitation of a pair of capacitor plates, one plate having a width no greater than the width of the other plate.

For the same reasons discussed above, De La Huerga fails to teach or disclose at least the following claimed limitations: a pair of electronic coupling elements positioned generally at the head and tail ends of the strap; forming one of the coupling elements with a predetermined area; forming the other coupling element with a length greater than the length of said one coupling element; adhesively interconnecting the head and tail ends in overlapping relation with the pair of electronic coupling elements in mutually coupled relation to enable the communication circuit.

Mosher, Jr. fails to teach or disclose those claimed limitations not taught or disclosed by De La Huerga. In addition, nowhere in Mosher, Jr. does the patent discuss the relative widths of the capacitor plates. It is well settled that proportions of features in drawings are not evidence of actual proportions when

drawings are not to scale. *Hockerson-Halberstadt, Inc. v. Avia Group Intel.*, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000)(“[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue”). The specification in Mosher, Jr. does not mention the relative sizes of the capacitor plates. Without a mention in the specification, such a teaching cannot be read into the drawings.

Accordingly, the combination of De La Hueraga with Mosher, Jr. fails to render claims 7, 9, 11-15, 18, 22, 26, 28-29, 32-33, 40-43 and 45-46 obvious.

**35 U.S.C. § 103**

In rejecting claim 23, the Office Action relies upon De La Hueraga in view of Harilela (US 4,862,436) as rendering the claimed invention obvious. The Office Action relies upon the same teachings of De La Hueraga discussed above, but states that De La Hueraga fails to teach a peel off strip protectively covering the patch. The Office Action relies upon Harilela to teach this limitation.

For the same reasons discussed above, De La Hueraga fails to teach or disclose at least the following claimed limitations: a pair of electronic coupling elements positioned generally at the head and tail ends of the strap; forming one of the coupling elements with a predetermined area; forming the other coupling element with a length greater than the length of said one coupling element; adhesively interconnecting the head and tail ends in overlapping relation with the pair of electronic coupling elements in mutually coupled relation to enable the communication circuit.

Harilela fails to teach or disclose those claimed limitations not taught or disclosed by De La Hueraga. Accordingly, the combination of De La Hueraga with Harilela fails to render claim 23 obvious.

New claims 48-55 present no new matter and find support in the drawings and specification. These new claims depend from claims that are allowable over the cited prior art and are accordingly themselves allowable.

Applicants submit that the claims as presented comprise allowable subject matter. Accordingly, claims 1-9, 11-26, 28-43 and 45-55 are in condition for allowance, notice of which is respectfully requested.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

/Scott W. Kelley/

Scott W. Kelley  
Registration No. 30,762

SWK:cw  
6320 Canoga Avenue, Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900